

Panaji, 18th March, 2004 (Phalguna 28, 1925)

SERIES II No. 51

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

*Note:- There are Two Extraordinary issues to the Official Gazette, Series II, No. 50 dated 11-3-2004 as follows:-*

- 1) *Extraordinary dated 12-3-2004 from pages 1463 to 1464 regarding Corrigendum from Department of Science, Technology & Environment.*
- 2) *Extraordinary No. 2 dated 16-3-2004 from pages 1465 to 1466 regarding Notifications from Department of Panchayat Raj and Community Development (Directorate of Panchayats).*

### GOVERNMENT OF GOA

#### Department of Co-operation

Office of the Registrar of Co-operative Societies

No. 19/12/2003/Alta-Mont/TS/RCS

**Before the Registrar of Co-operative Societies,  
at Panaji-Goa**

To,

1. Shri Pervis Gomes,  
Chairman,  
Flat No. G-4, Alta Mont  
Co-op. Housing Society Ltd.,  
Margao-Goa.
2. Shri Lawrence Castelino,  
Secretary,  
Flat No. G-8, Alta Mont  
Co-op. Housing Society Ltd.,  
Margao-Goa.
3. Shri Avito Almeida, Treasurer,  
Flat No. II/10,  
Alta Mont Co-op. Housing Society Ltd.,  
Margao-Goa.
4. Shri Peter D'Souza,  
Flat No. G-9, Committee member,  
Alta Mont Co-op. Housing Society Ltd.,  
Margao-Goa.

5. Shri C. Kakodkar,  
Committee member,  
Alta Mont Co-op. Housing Society Ltd.,  
Margao-Goa.
6. Shri Rajan Naik,  
Committee member,  
Alta Mont Co-op. Housing Society Ltd.,  
Margao-Goa.

*(Persons cited above from Sr. No. 1 to 6 are elected members of the Managing Committee of Alta Mont Co-op. Housing Society Ltd., Margao).*

1. The Alta Mont Co-op. Housing Society Ltd., Margao-Goa, was registered under the provisions of the M.C.S. Act, 1960 as in force in the State of Goa (hereinafter referred to as "the said Act") and the Co-operative Societies Rules, 1962 made thereunder (hereinafter referred to as "the said Rules") under registration No. HSG-(b)-14/Goa dated 9-10-1969 and classified as "Housing Society" under sub-classification No. 5(b) "Tenant Co-partnership Housing Society" in terms of Rule 9 of the Co-op. Societies Rules, 1962 to fulfil the objects as enshrined in bye-law No. 3 (a to e) of the bye-laws of the society.
2. In terms of provisions of bye-law No. 43 & 44(a) the affairs of the society are required to be managed by the Managing Committee consisting of 6 (six) Managing Committee members to be elected in rotation every year in accordance with the provisions of the Bye-laws and Election Rules framed for the purpose.
3. The elections for the Managing Committee of the society were held on 24-2-2002 and fresh elections were due on 24-2-2003. However, inspite of instructions issued by Asstt. Registrar of Co-op. Societies South Zone, Margao, vide letter No. 18/4/95/TS/RCS/362 dated 8-8-2003, no action has been taken by the present Managing Committee to hold the election and constitute the new Managing Committee as required under the provisions of bye-law of the society and is continuing in the office illegally and without any locus standi.

4. Four members of the Managing Committee filed a dispute under provisions of Section 91 of the Maharashtra Co-operative Societies Act, 1960 as in force in the State of Goa against the Chairman, Secretary & Treasurer of the society for undertaking the painting job of the society without following proper procedure and norms, whereby the funds of the society were misutilised. The said dispute was referred to the Registrar's Nominee, to decide the matter on merits of the case. Accordingly, the Registrar's Nominee decided the matter and passed an order on 8-3-2003. However, the same was remanded back to the Registrar's Nominee as certain flaws were noticed by Asstt. Registrar of Co-op. Societies, South Zone, Margao, in the order dated 8-3-2003 passed by R's Nominee. The decision in the matter is awaited.
5. Without considering the above situation and overruling the objection of some of the Managing Committee Members, the 3 Committee Members intended to carry out the job without looking for the utility of the society's funds in a just manner and under the pretext of the above matter being subjudice before R's Nominee for decision no fresh elections were held till date and thereby the Committee continue to function illegally and without any locus standi.
6. In order to keep a check on financial misutilisation, the Asstt. Registrar of Co-op. Societies, South Zone, Margao, vide order dated 26-8-2002 imposed certain restrictions on financial transactions made by Managing Committee with the result, the regular maintenance of the society was stopped by the Managing Committee, whereby putting the members in hardship so also the other residents of the complex were aggrieved for non-undertaking of day to day maintenance.
7. Vide representation dated 14-8-2003 addressed to the Asstt. Registrar of Co-op. Societies, South Zone, Margao, 19 members of the society have prayed for an appointment of an Administrator to hold the election.
8. The audit of the aforesaid society has been conducted up to 31-3-2002 and the audit for the year 2002-2003 is yet to be taken up.
9. All the above respondents referred to at 1 to 6 were served with a show cause notice No. 19/12/2003/Alta-Mont/TS/RCS dated 14th October, 2003 in terms of Section 78 of the said Act read with Rule 61 of the said Rules to show cause as to why they should not be removed from the Managing Committee of the society for committing various defaults and appoint an Administrator or Committee of Administrators to manage the affairs of the society.
10. All the above respondents were given an opportunity to file their replies and also of being heard personally on 31-10-03.
11. Shri Castellino, Secretary of the society was present for the hearing and submitted a reply signed by Chairman, Treasurer and himself. So also Shri Rajan Naik and Shri Peter D'Souza filed their replies dated 27-10-2003 & 29-10-2003 respectively. However, Shri C. Kakodkar have neither attended the personal hearing nor filed the written reply.
12. The contention of the Chairman, Treasurer and Secretary in their above referred reply that they are prepared to hold the election within 4/5 weeks of receiving the order from this office directing them to hold election and stating that no clarification will be given to them cannot be accepted. It is the prime responsibility and binding duty of the Managing Committee to hold the election prior to expiry of the term in accordance with provisions of Act, Rules and Bye-laws of the Society. So also, by invariably following the election Rules framed and approved by the registering authority for the purpose, which the society has failed to do so.
13. From the replies filed by S/Shri Rajan Naik and Peter D'Souza it is observed that they have not clarified the charges levelled in the above referred show cause notice. Moreover, they have given more stress to expose the miss-deeds of the Chairman, Secretary and Treasurer. Therefore, it is evident that Shri Rajan Naik and Shri Peter D'Souza have admitted the charges levelled in the above referred show cause notice. Shri Rajan Naik in his reply has also prayed to appoint an Administrator or Committee of Administrators to manage the affairs of the Society.  
  
One can also come to the conclusion from the said replies that there exist a faction amongst in the Managing Committee, which is not a healthy practice for the progress of the society in particular, and the Co-op. Movement in general.
14. The Goa Co-op. Housing Finance and Federation Ltd., Panaji, is a Federal Society of Housing Societies has been consulted in the matter and the said Federation has informed vide their letter dated 21-10-2003 that they have no objections for superseding the present Managing Committee of the Society and appoint an Administrator or Committee of Administrator in its place.
15. During the course of hearing, the Secretary of the society assured that election would be held at the earliest possible. However, taking into consideration the replies filed by the other two persons viz Shri Rajan Naik & Shri Peter D'Souza, I am of the considered opinion that no useful purpose will be served by allowing the present committee which is functioning illegally and without any

locus standi to hold the election for electing the New Managing Committee. I am also of the view that there will not be free and fair election by the present Managing Committee. Under the circumstances it is felt that the elections for electing the new Managing Committee needs to be conducted by an independent authority so as to have free and fair election.

In the light of the above position, I am of the opinion that the present Managing Committee of the Society has failed to discharge their functions and duties assigned to them under the provisions of Act, Rules and Bye-laws of the society and committed a breach of trust of members by acting prejudicial to the interest of the Society.

I am, therefore, satisfied that there is no alternative but to remove the existing Managing Committee and appoint an Administrator to manage the affairs of the society in the interest of the society, its members and the creditors and also to hold the election afresh at the earliest, so that the management of the society is entrusted to the democratically elected Managing Committee for smooth functioning and to save the society from verge of collapse. I am therefore, inclined to pass the following order:-

#### ORDER

In exercise of the powers vested in me under sub-section (1) of Section 78 of the Maharashtra Co-op. Societies Act, 1960 as in force in the State of Goa, read with Sub-Rule (1) of Rule 61 of the Co-operative Societies Rules, 1962, I, P. K. Patidar, Registrar of Co-op. Societies, Government Goa, Panaji, hereby supersede the existing Managing Committee of the Alta Mont Co-op. Housing Society Ltd., Margao-Goa consisting of following members:-

1. Shri Pervis Gomes, Chairman,  
Flat No. G-4, Alta Mont Co-op. Housing Society Ltd.,  
Margao-Goa.
2. Shri Lawrence Castelino, Secretary,  
Flat No. G-8, Alta Mont Co-op. Housing Society Ltd.,  
Margao-Goa.
3. Shri Avito Almeida, Treasurer,  
Flat No. II/10, Alta Mont Co-op. Housing Society Ltd.,  
Margao-Goa.
4. Shri Peter D'Souza, Committee member,  
Flat No. G-9, Alta Mont Co-op. Housing Society Ltd.,  
Margao-Goa.
5. Shri C. Kakodkar, Committee member,  
Alta Mont Co-op. Housing Society Ltd., Margao-Goa.
6. Shri Rajan Naik, Committee member,  
Alta Mont Co-op. Housing Society Ltd., Margao-Goa.

Further, in exercise of the powers vested in me under sub-clause (ii) of clause 1 of Section 78 of the Act, read

with clause (b) of Sub-Rule (1) of Rule 61 of the said Rules hereby Shri U. P. Gaonkar, Sr. Inspector/Auditor, Co-op. Societies, South Zone, Margao-Goa, as an Administrator to manage the affairs and update the records of the society in place of existing Managing Committee so removed with immediate effect, for a period of 6 months from the date of taking over the charge of the society by the Administrator. The Administrator shall take necessary steps to hold the election of the Managing Committee of the Alta Mont Co-op. Housing Society Ltd., Margao-Goa, before expiry of the term of the Administrator.

Given under my hand and seal of this office on this 7th day of November, 2003.

P. K. Patidar, Registrar of Co-operative Societies.

Panaji, 7th November, 2003.

#### Order

No. 21-3-96-TS-Credit-CZ/RCS

- Read: 1) This office order No. 21-3-96-TS-Credit-CZ/RCS dated 24-6-2002.
- 2) This office order No. 21-3-96-TS-Credit-CZ/RCS dated 29-11-2002.
- 3) Letter No. 14/31/99/ARCS/CZ/2000-2001 dated 26-9-2003 received from The Asstt. Registrar of Co-op. Societies, Central Zone, Panaji.

By virtue of the powers vested in me under Section 78 of the Maharashtra Co-operative Societies Act, 1960 as in force in the State of Goa, read with Rule 61 of the Co-op. Societies Rules, 1962, I, P. K. Patidar, Registrar of Co-op. Societies, Goa, hereby extend the term of Committee of Administrators of Mc. Dowell & Keserval Employees Co-op. Credit Society Ltd., Betora, Ponda-Goa, appointed vide order referred to at 1 above for the further period of 6 months with retrospective effect from 1-7-2003. The Administrator shall take necessary steps to hold the election of the Managing Committee of Mc. Dowell & Keserval Employees Co-op. Credit Society Ltd., Betora, Ponda-Goa, and ensure that the statutory audit of the Society is got completed by completing the records before expiry of the extended period.

P. K. Patidar, Registrar of Co-op. Societies.

Panaji, 3rd October, 2003.

No. 21-4-96-TS-HSG-CZ-RCS

Before the Registrar of Co-op. Societies, Panaji-Goa

Tb,

1. Shri Madhukar Sheldekar,  
Gauri Co-op. Housing Society Ltd.,  
Tivrem, Marcel-Goa. ... Chairman

2. Shri Audhut Kunkolekar,  
Gauri Co-op. Housing Society Ltd.,  
Tivrem, Marcel-Goa. ... Secretary
3. Shri Pramod Prabhu,  
Gauri Co-op. Housing Society Ltd.,  
Tivrem, Marcel-Goa. ... Member
4. Shri Mahesh Gaonkar,  
Gauri Co-op. Housing Society Ltd.,  
Tivrem, Marcel-Goa. ... Member
5. Sandhya Sheldekar,  
Gauri Co-op. Housing Society Ltd., ... Vice-  
Chairman.

All the above respondents who are elected members of the Managing Committee of the Gauri Co-operative Housing Society Ltd., were served with a Notice No. 21-4-96-TS-HSG-CZ-RCS dated 5-12-2002 in terms of Section 78 of the Maharashtra Co-op. Societies Act, 1960 as in force in this State to show cause as to why they should not be removed from the Managing Committee of the Society for committing various defaults and appoint an Administrator or Committee of Administrators to manage the affairs of the Society.

All the above Respondents were given an opportunity to file their replies and also of being heard personally on 27-12-2002 and subsequent hearing. Accordingly, they filed their jointly written reply on 24-3-2003.

The joint reply filed by the Respondents was not found to be convincing and acceptable on account of the following:-

As regard para No. 1 (i to vii) of the reply submitted by the respondent it is submitted that on the basis of said facts, the then Managing Committee of the society was superseded by the Registrar of Co-op. Societies, in terms of Section 78 of the Act read with Rule 61 of the Co-operative Societies Rules, 1962 vide order dated 6th March, 2000 and appointed Committee of Administrators to manage the affairs of the society and as such the facts mentioned therein are irrelevant in the present case.

As regard dispute under Section 91 of the said Act filed by the society against Shri Audhut Kunkolekar, it is submitted by the Respondent that the order dated 5th June, 2000 passed by the Registrar's Nominee in case No. 44/222/98/ABN/ARCS/94-95 directing Shri Audhut Kunkolekar to demolish the compound wall was set aside by the Co-operative Tribunal, Goa in Co-op. Appeal No. 16/2000 by Judgment dated 24-10-2000.

The contention of the Respondent that an immovable property can be sold or transferred only by a Deed of Sale or conveyance and registering the same with the Civil Sub-Registrar cannot be accepted. Being a Co-op. Housing Society, the transfer of bungalow in the society by a past member to new member could be effected through the society by following the proper procedure

as laid down in the bye-laws of the society and there is no need to execute the sale deed by individual member. Moreover, in the General Power of Attorney signed by Shri Madhukar Anant Sheldekar, before the Notary it is clearly indicated that the Society has allowed Shri Madhukar Anant Sheldekar to sell/transfer bungalow No. A-2 to a desirous person and he agreed to sell the same to Shri Gajanan V. Kuwadekar for Rs. 1,43,000/- of which Shri Sheldekar has received the amount of Rs. 80,000/- from Shri Kuwadekar. From the above, it is evident that Shri Madhukar Anant Sheldekar has sold his Bungalow to Shri Gajanan Kuwadekar and as such he ceased to be the member of the society.

A Deed of Sale or conveyance needs to be executed by the Society whenever the land/building is to be transferred from owner/builder to the society being a common property and not by an individual and as such the contention of the Respondent that a sale or transfer can be made only by a Deed of sale duly registered with the registering authority and not by mere Agreement of Sale cannot be accepted in regard to sale of flat No. D-II by Shri Pramod S. Prabhu to Shri Damodar M. Narvekar. Moreover, from the letter dated 4th February, 2002 addressed to Mr. S. P. Naik, Parsekar, by Branch Manager, Can Fin Homes Ltd., it transpires that Shri Pramod Prabhu have sold his flat to Shri Damodar M. Narvekar and on being the absolute owner of the property, Shri Damodar Narvekar has created equitable mortgage by deposit of title deeds in the favour of the said Can Fin Homes Ltd. The above facts clearly indicate that Shri Pramod Prabhu has sold his flat to Shri Damodar M. Narvekar and as such he ceased to be the member of the Society.

As regard failure to furnish the statement of accounts for the year 2000-2001 and 2001-2002 within the stipulated period as required under the provisions of Rule 58 of the said Rules and bye-law No. 59 of the bye-laws of the Society, it is submitted by the Respondent that this failure is entirely on account of Shri Suresh Asgaonkar, Shri Parsekar and others who have failed to hand over records of the society to the Administrators and to the Managing Committee elected thereafter. It is also submitted that the society has written several letters to the appropriate authority for retrying the said records. It may be stated that the Asstt. Registrar of Co-op. Societies, Central Zone, has already initiated action under Section 80 of the said Act for seizure of records through Mamlatdar and Executive Magistrate, Ponda from the Ex-office bearers of the society. However, Shri Suresh Asgaonkar and Shri Sadanand Parsekar, Ex-office bearers of the society challenged the order dated 30th April, 2002 passed by the Asstt. Registrar of Co-op. Societies, Central Zone, Panaji before the Registrar of Co-op. Societies by filing an revision application. The Registrar of Co-op. Societies, vide order dated 29-9-2003 directed the Asstt. Registrar of Co-op. Societies, Central Zone, Panaji to conduct proper inquiry to establish the existing of record which is claimed by the respondent society from the petitioners within 6 months and thereafter proceed under Section 80 of the Act if required so.

The Respondents in its reply have admitted that the Society has failed to hold the General Body of the Society within the stipulated time.

The Goa Co-op. Housing Finance and Federation Ltd., Panaji, which is a Federal Society of Housing Societies has been consulted in the matter and the said Federation has informed vide their letter dated 15-10-2003 that they have no objections for superseding the present Managing Committee of the Society and appoint an Administrator or Committee of Administrators in its place.

In the light of the above position, I am of the opinion that the present Managing Committee of the Society has failed to discharge their functions and duties entrusted to them under the provisions of Act, Rules and Bye-laws of the society and committed a breach of trust of members by acting prejudicial to the interest of the Society. It is also observed that out of the 5 members 2 members of the Managing Committee have already sold their flats and cease to be members of the Society as per the provisions of the byelaws whereby the strength of the present Managing Committee has been reduced to 3 members which cannot carryout the functioning of the Society in the absence of full strength of the Managing Committee as required under bye-laws No. 42 of the bye-laws of the society.

I am, therefore, satisfied that there is no alternative but to remove the existing Managing Committee and appoint an Administrator to manage the affairs of the society in the interest of the society, its members and the creditors and also to hold the election afresh at the earliest, so that the management of the society is entrusted to the democratically elected Managing Committee for smooth functioning and to save the society from the verge of collapse. I am therefore, inclined to pass the following order:-

#### ORDER

In exercise of the powers vested in me under sub-section (1) of Section 78 of the Maharashtra Co-op. Societies Act, 1960 as in force in the State of Goa, read with Sub-Rule (1) of Rule 61 of the Co-operative Societies Rules, 1962, I, P. K. Patidar, Registrar of Co-op. Societies, Government of Goa, Panaji, hereby supersede the existing Managing Committee of the Gauri Co-op. Housing Society Ltd., Tivrem, Marcel-Goa.

1. Shri Madhukar Sheldekar,  
Gauri Co-op. Housing Society Ltd.,  
Tivrem, Marcel-Ponda. ... Chairman
2. Shri Audhut Kunkolekar,  
Gauri Co-op. Housing Society Ltd.,  
Tivrem, Marcel-Ponda. ... Secretary
3. Shri Pramod Prabhu,  
Gauri Co-op. Housing Society Ltd.,  
Tivrem, Marcel-Ponda. ... Member
4. Shri Mahesh Gaonkar,  
Gauri Co-op. Housing Society Ltd.,  
Tivrem, Marcel-Ponda. ... Member

5. Sandhya Sheldekar,  
Gauri Co-op. Housing Society Ltd., ... Member.  
Tivrem, Marcel-Ponda.

Further, in exercise of the powers vested in me under sub-clause (ii) of clause 1 of Section 78 of the Act, read with clause (b) of Sub-Rule (1) of Rule 61 of the said Rules hereby appoint Shri B. Y. Sawant, Jr. Auditor, Co-op. Societies, Central Zone, Panaji, as an Administrator to manage the affairs and update the records of the society in place of existing Managing Committee so removed with immediate effect, for a period of 6 months from the date of taking over the charge of the society by the Administrator. The Administrator shall take necessary steps to hold the election of the Managing Committee of the Gauri Co-op. Housing Society Ltd., Tivrem, Marcel-Goa, before expiry of the term of the Administrator.

Given under my hand and seal of this office on this 5th day of November, 2003.

P. K. Patidar, Registrar of Co-operative Societies.

Panaji, 5th November, 2003.

#### Order

No. 19/12/94/TS/RCS

- Read: 1) Order No. 19-12-94-TS/RCS dated 09-11-2001.  
2) Order No. 19-12-94-TS/RCS dated 09-05-2002.  
3) Order No. 19-12-94-TS/RCS dated 12-11-2002.

By virtue of the powers vested in me under Section 78 of the Maharashtra Co-op. Societies Act, 1960 as in force in this State read with Rule 61 of the Co-operative Societies Rules, 1962, I, P. K. Patidar, Registrar of Co-operative Societies, Government of Goa, hereby extend the period of Committee of Administrators of the Goa Shipyard Employees Co-op. Credit Society Ltd., Vasco, appointed vide order referred to above for the further period of six months from 9-11-2003 to 8-5-2004. The Committee of Administrators shall ensure that necessary steps for holding election to the Managing Committee of the Society are taken well in advance so as to facilitate to handover the charge of the Society to the newly elected Managing Committee before expiry of the term of the Committee of Administrators i.e. 8-5-2004. The election should be held within the extended period and no further extension will be granted under any circumstances.

P. K. Patidar, Registrar of Co-op. Societies.

Panaji, 7th November, 2003.

#### Order

No. 21-1-94-TS-Gen-CZ/RCS

- Read: 1) This office order No. 21-1-94-TS-Gen-CZ/RCS dated 14-4-2003.

- 2) Letter No. IWTECCS/108/03-04 dated 13-10-2003 received from the Administrator, The Inland Water Transport Employees Co-op. Credit Society Ltd., Panaji.

By virtue of the powers vested in me under Section 77A of the Maharashtra Co-operative Societies Act, 1960 as in force in the State of Goa, I, P.K. Patidar, Registrar of Co-op. Societies, Goa, hereby extend the term of Administrators of The Inland Water Transport Employees Co-op. Credit Society Ltd., Panaji, appointed vide order referred to at 1 above for the further period of 6 months from 15-10-2003 to 14-4-2004. The Administrator shall take necessary steps to hold the election of the Managing Committee of The Inland Water Transport Employees Co-op. Credit Society Ltd., Panaji, before expiry of the extended period.

P. K. Patidar, Registrar of Co-op. Societies.

Panaji, 23rd October, 2003.

No. 19/12/2003/Alto-Mont/TS/RCS

**Before the Registrar of Co-operative Societies,  
at Panaji-Goa**

Show Cause Notice under provisions of Section 78 of the Maharashtra Co-op. Societies Act, 1960, as applied to the State of Goa read with sub-rule 2 of rule 61 of the Co-op. Societies Rules, 1962.

To,

1. Shri Pervis Gomes,  
Chairman,  
Flat No. G-4, Alta Monte  
Co-op. Housing Society Ltd.,  
Margao-Goa.
2. Shri Lawrence Castelino,  
Secretary,  
Flat No. G-8, Alta Monte  
Co-op. Housing Society Ltd.,  
Margao-Goa.
3. Shri Avito Almeida, Treasurer,  
Flat No. II/10, Alta Monte  
Co-op. Housing Society Ltd.,  
Margao-Goa.
4. Shri Peter D'Souza,  
Flat No. G-9, Committee member,  
Alta Monte Co-op. Housing Society Ltd.,  
Margao-Goa.
5. Shri C. Kakodkar,  
Committee member,  
Alta Monte Co-op. Housing Society Ltd.,  
Margao-Goa.
6. Shri Rajan Naik,  
Committee member,  
Alta Monte Co-op. Housing Society Ltd.,  
Margao-Goa.

(Persons cited above from Sr. No. 1 to 3 are the office bearers and Sr. No. 4 to 6 are elected members of the Managing Committee of Alta Monte Co-op. Housing Society Ltd., Margao).

1. Whereas the Alta Monte Co-op. Housing Society Ltd., Margao-Goa, was registered under the provisions of the M.C.S. Act, 1960 as in force in the State of Goa (hereinafter referred to as "the said Act") and the Co-operative Societies Rules, 1962 made thereunder (hereinafter referred to as "the said Rules") under registration No. HSG-(b)-14/Goa dated 9-10-1969 and classified as "Housing Society" under sub-classification No. 5(b) "Tenant Co-partnership Housing Society" in terms of Rule 9 of the Co-op. Societies Rules, 1962 to fulfil the objects as enshrined in bye-law No. 3 (a to e) of the bye-laws of the society.
2. And whereas, in terms of provisions of bye-law No. 43 the affairs of the society are required to be managed by the Managing Committee consisting of 6 (six) Managing Committee members to be elected in rotation every year in accordance with the provisions of the bye-laws of the society.
3. And whereas, the elections for the Managing Committee of the society were held on 24-2-2002 and fresh elections were due on 24-2-2003.
4. And whereas, inspite of instructions issued by Asstt. Registrar of Co-op. Societies, South Zone, Margao, vide letter No. 18/4/95/TS/RCS/362 dated 8-8-2003, no action has been taken by the present Managing Committee to hold the election and constitute the new Managing Committee as required under the provisions of bye-law of the society and is continuing in the office illegally and without any locus standi.
5. And whereas, some of the members of the Managing Committee were aggrieved with the decision taken in the AGM held on 24-2-2003, for undertaking the painting job of the society without following proper procedure and norms, and whereby the funds of the society were misutilised and an expenditure made thereof was contested by raising a dispute under provisions of Section 91 of the Act, which was referred to the Registrar's Nominee, Adv. Caitano Rosario Rodrigues, Margao on 30-10-2002, to decide the matter on merits of the case.
6. And whereas, the said matter was remanded back to Registrar's Nominee on 12-3-2003 as certain flaws were noticed by Asstt. Registrar of Co-op. Societies, South Zone, Margao, in the order dated 8-3-2003 passed by R's Nominee. The decision in the matter is awaited.
7. And whereas, the audit of the aforesaid society has been conducted up to 31-3-2002 and the audit for the year 2002-2003 is yet to be taken up.

8. And whereas, in view of above situation for misutilisation of the society's funds as well as further decision to undertake fresh works of A.C. roofing (M. S. fabrication structure) on terraces of the buildings investing huge funds without following proper norms and procedure and inspite of being objected by some of the members, the 3 Committee Members intended to carry out the job without looking for the utility of the society's funds in a just manner and under the pretext of the above matter being subjudice pending before Registrar's Nominee for decision, no fresh election were held till date and thereby the Committee continues to function illegally and without any locus standi.
9. And whereas, certain restrictions were imposed on the Managing Committee by Asstt. Registrar of Co-op. Societies, South Zone, Margao, vide order dated 26-8-2002, so also were restrained for withdrawal of amount either from the saving bank account's or the F. D. Account, maintained with the Goa State Co-op. Bank, Margao Branch, other than regular day-to-day maintenance and payment of water and electricity bills etc., in view of the chronic situation for investment of society's fund in a illegal manner. With the result, the regular maintenance of the building was stopped by the present Managing Committee, and the members have suffered hard as regular maintenance works of the society have been paralysed at present, whereby other residents of the complex have been aggrieved for non-undertaking of day to day maintenance work.
10. And whereas, vide representation dated 14-8-2003 19 members of the society have pointed out certain irregularities in the functioning of the society and prayed for an appointment of an Administrator to hold the election.
11. And whereas, it is apprehended that if the existing situation is allowed to continue, the interest of its members and the financial position of the society is likely to be affected adversely and the functioning of the society may come to a stand still and may also give scope for further serious irregularities and misutilisation of society's funds. Hence, with a view to bring about a salutary situation of the problem and curbing further dissatisfaction amongst the members and safeguarding the interest of the society from being jeopardized, the undersigned is satisfied that existing Managing Committee of the society be removed and an Administrator or a Committee of Administrators be appointed to manage the affairs of the society, in place of Managing Committee till the elections are held and new Managing Committee assumes office.

Now, therefore, I, P. K. Patidar Registrar of Co-op. Societies, Goa State call upon you in terms of sub-section (1) of Section 78 of the Maharashtra Co-op. Societies Act, 1960 read with Sub-Rule (2) of Rule 61 of

the Co-op. Societies Rule, 1962 as in force in the State of Goa, to Show Cause in writing within 15 days from the date of issue of this Notice as to why you should not be removed from the Managing Committee of the aforesaid society and an Administrator or Committee of Administrators be appointed to manage the affairs of the society. It may please be noted that, if no satisfactory explanation/clarification is received within aforesaid stipulated period, it will be construed/presumed that they have nothing to say in the matter.

You are also called upon to appear before me in my Chamber in person or duly authorised agent on 31-10-2003 at 3.30 p.m. for personal hearing alongwith documentary evidence if any, in support of your say.

In the event of failure of you to submit your say/objection if any, within the stipulated period or failed to appear before me on the aforesaid date and time, it will be presumed that you have nothing to say in the matter and the matter will be decided ex-parte.

Given under my hand and seal of this office on this 14th day of October, 2003.

P. K. Patidar, Registrar of Co-operative Societies and Ex-officio Jt. Secretary.

Panaji, 14th October, 2003.

#### Order

No. 48-80-2001/TS/RCS

Read: 1) Letter dated 1-9-2003 from Advocate Sunil K. Shirsat, Ansabhat, Mapusa-Goa.

In exercise of the powers conferred on me under sub-section (1) of Section 93 of the Maharashtra Co-operative Societies Act, 1960 as in force in the State of Goa, read with Sub-Rule (1) of Rule 73 of the Co-operative Societies Rules, 1962, I, P. K. Patidar, Registrar of Co-op. Societies, Goa, am pleased to appoint Shri Sunil K. Shirsat, Advocate as Registrar's Nominee for deciding the dispute arising in any of the Co-operative Societies referred to him by the Registrar of Co-op. Societies, Panaji or Asstt. Registrar of Co-op. Societies, Central Zone, Panaji, South Zone, Margao, North Zone, Mapusa and Dairy Office, Ponda of State of Goa as the case may be for the period up to 31-3-2004.

P. K. Patidar, Registrar of Co-operative Societies

Panaji, 16th October, 2003.

#### Order

No. 19-1-2003/TS/RCS

Read: 1) Order No. 19/1/2002/TS/RCS dated 2-7-2003.

2) Letters No. 18-78-90-ARSH/HSG dated 4-4-2002 and 29-10-2003, received from Asstt. Registrar of Co-op. Societies, South Zone, Margao.



By virtue of the powers vested in me under Section 78 of the Maharashtra Co-operative Societies Act, 1960 as in force in the State, read with Rule 61 of the Co-operative Societies Rules, 1962, I, P. K. Patidar, Registrar of Co-operative Societies, hereby extend the period of Committee of Administrators of Valley Height Co-operative Housing Society Ltd., Vasco-da-Gama, appointed vide Order referred to above for the further period of six months from 3-10-2003 to 2-4-2004. The Administrator shall take necessary steps to hold the election of the Managing Committee of Valley Height Co-operative Housing Society Ltd., Vasco-da-Gama, before expiry of the extended period. No further extension will be granted.

P. K. Patidar, Registrar of Co-op. Societies.

Panaji, 18th November, 2003.

### Order

No. 23-2-2002/Martins Palace/TS/RCS

Read: 1) This Office order No. 23-3-2002/Martins Palace/TS/RCS dated 26th August, 2002.

- 2) Letter No. MPCHS/AGM/2003 dated 24-9-2003 received from Administrator, Martins Palace Co-op. Housing Society Ltd., Taleigao.
- 3) Letter No. 13/279/2000/HSG/ARCS/CZ/39 dated 17th October, 2003 received from Asstt. Registrar of Co-operative Societies, Central Zone, Panaji.

By virtue of the power vested in me under Section 77A of the Maharashtra Co-op. Societies Act, 1960 as in force in this State, I, P. K. Patidar, Registrar of Co-operative Societies, Government of Goa, hereby extend the period of the Administrator of the Martins Palace Co-op. Housing Society Ltd., Taleigao, appointed vide order referred to 1 at above for the further period of one year w.e.f. 25-8-2003. The Administrator shall ensure that necessary steps to holding election to the Managing Committee of the Society are taken well in advance so as to facilitate to handover the charge of the Society to the newly elected Managing Committee before expiry of the term of the Committee of Administrators i.e. 24-8-2004. The election should be held within the extended period and no further extension will be granted under any circumstances.

P. K. Patidar, Registrar of Co-op. Societies.

Panaji, 14th November, 2003.

No. 19/14/2003/TS/RCS

Read: 1) Letter dated 10-6-2003 from six Managing Committee Members, addressed to the Chairman, Shri Navdurga Dudh Vya. Sahakari Sauntha Ltd., Kundai, Ponda-Goa, tendering joint resignation of the post of Managing Committee Members of Society.

2) Inquiry Report dated 3-7-2003 submitted by Shri G. R. Gawade, Sr. Auditor of the Co-op. Societies (Dairy), Ponda-Goa.

3) Letter dated 3-7-2003 from the Chairman of Shri Navdurga Sahakari Dudh Vyavasayik Sauntha Maryadit, Kundai, Ponda-Goa.

4) Letter No. 1-8-93/ADM/71 dated 14-7-03 from the Asstt. Registrar of Co-operative Societies, (Dairy), Ponda-Goa.

1. Whereas Shri Navdurga Sahakari Dudh Vyavasayik Sauntha Ltd., Kundai, Ponda-Goa, was registered on 7-12-1972, under the provisions of the Maharashtra Co-operative Societies Act, 1960 as in force in the State of Goa, (hereinafter referred to as the "said Act") and the Co-operative Societies Rules, 1962 (hereinafter referred to as the "said Rules") under code Symbol No. PRD-(c)-104/Goa and was classified as Producers Society under sub-classification No. 7(C) Agricultural Producers Society in terms of Rule No. 9 of the Co-op. Societies Rules, 1962 to fulfil the objects as enshrined in bye-law No. 1-2 of the said society.
2. And whereas, as per the bye-law No. 5.1-(A) the Management of the society shall be carried on by the Managing Committee consisting of 9 members.
3. And whereas, as per the inquiry report dated 3-7-2003 submitted by Shri G. R. Gawade, Sr. Auditor, Co-op. Societies (Dairy), Ponda and forwarded under letter No. 1-8-93/ADM/71 dated 14-7-2003, by the Asstt. Registrar of Co-op. Societies (Dairy), Ponda, it is found that vide letter dated 10-6-2003, Shri Laxman A. Joshi and five other Managing Committee Members, have submitted their joint resignation as members of the Managing Committee, addressed to the Chairman of the society. As a result the present Managing Committee has been reduced to three and therefore cannot carry on the day to day affairs of the society in the absence of its strength as per bye-law No. 5-1(A).
4. And whereas, it is further reported that the accounts of the society for the year 2001-2002 have been audited and the Special Report on the working of the said society has been submitted to this Office vide letter No. 1-38-2003/AR (Dairy) dated 28-5-2003, which revealed serious irregularities in the functioning of the Society. From the Special Report of the Auditor, it has been observed that the management had not exercised proper control over the society's activities and therefore in the year 1999-2000 society has suffered financial loss amounting to Rs. 44,383=50 by way of cash misappropriation due to non-accounting of cattle feed sales, which was subsequently recovered from the concerned persons.
5. And whereas, the undersigned is of the opinion that if the existing situation is allowed to continue,



the function of the society has or is likely to come to standstill and it is expedient that immediate action is required to be taken in terms of provisions of clause (e) of sub-section (1) of Section 77A of the said Act and satisfied that it is not reasonably practical to publish a notice as contemplated in the 2nd proviso to Section 77A (1) of the said Act. Moreover, the six Managing Committee Members of the Managing Committee have already tendered their resignations as members of the Managing Committee and as such present Managing Committee could not function. I, P. K. Patidar, Registrar of Co-operative Societies, Goa therefore, in exercise of the powers vested in me under Section 77A of the said Act, pass the following order:-

**ORDER**

In exercise of the powers vested in me under clause (e) of sub-section (1) of Section 77A of the Maharashtra Co-op. Societies Act, 1960 as in force in the State of Goa, I, P. K. Patidar, Registrar of Co-op. Societies Goa hereby appoint Mrs. Shoba V. Gad, Lady Instructor, the Goa State Co-op. Milk Producers' Union Ltd., Curti, Ponda as Administrator of Shri Navdurga Sahakari Dudh Vyavasahik Saunstha Ltd., Kundai, Ponda, to manage the affairs of the said society for initial period of six months or till the new Managing Committee is elected in accordance with provisions of bye-laws No. 5.1(A) of the bye-laws of the society, which ever is earlier.

This order shall come into force with immediate effect.

Given under my hand and seal of this office on 21st day of November, 2003.

P. K. Patidar, Registrar of Co-op. Societies.

Panaji, 21st November, 2003.

**Department of Education, Art & Culture**

Directorate of Archives & Archaeology

**Order**

No. 1/13/78/HA/2003-04/3236

Sub: Application dated 6-11-03 from Smt. Elma A. Pereira Pais, Asstt. Archivist, Grade I

Ex-post facto approval of the Government is hereby conveyed to accept a notice of Voluntary Retirement from Government Service, tendered by Smt. Elma A. Pereira Pais, Asstt. Archivist, Grade I, Group "B" Gazetted post of the Directorate of Archives vide her application dated 6-11-2003 w.e.f. 6-02-2004 (FN.).

Smt. Elma A. Pereira Pais, Asstt. Archivist Grade I, shall stand relieved w.e.f. from 6-2-2004 (FN.).

By order and in the name of the Governor of Goa.

M. L. Dicholkar, Director of Archives & Ex-officio Joint Secretary.

Panaji, 13th February, 2004.

**Department of Elections**

Office of the Chief Electoral Officer

**Notification**

No. 5-64-2002/ELEC/822

The following Notification No. 82/GOA-LA/1/2002 (Panaji) dated 14-8-2003 issued by the Election Commission of India, New Delhi is hereby published for general information.

Mrs. P. Arlekar, Assistant Chief Electoral Officer.

Panaji, 27th August, 2003.

**ELECTION COMMISSION OF INDIA**

Nirvachan Sadan,  
Ashok Road,  
New Delhi-110001.

Dated: 14th August, 2003.  
23 Sravana 1925 (Saka).

**Notification**

No. 82/GOA-LA/2/2002 (Panaji):- In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgement of the High Court of Bombay at Goa, Panaji Bench dated 18-7-2003 in Election Petition No. 2 of 2002.

By Order,

Shangara Ram  
Secretary,

Election Commission of India.

**IN THE HIGH COURT OF BOMBAY AT GOA****ELECTION PETITION NO. 2 OF 2002**

Jose Philips Domingo D'Souza,  
son of late Domingo D'Souza,  
R/o 263, Villa Dom Rine,  
Behind Tilak Maidan, Vasco-da-Gama. ... Petitioner.

**Versus**

1. Shri Rajendra Vishwanath Arlekar,  
son of late V. Arlekar,  
R/o G-1, Golden Hill Apartment,  
Mangor, Vasco-da-Gama.
2. Carol Taher Daud,  
R/o Flat No. 6, 4th Floor,  
Lakshajyot Complex, Vaddem,  
Vasco-da-Gama.
3. Thalmann Pradeep Pereira,  
son of Pradeep Gerald Pereira,  
R/o Karma Enclave Ground Floor,  
Vaddem, Vasco-da-Gama.

4. Shrikant Dattaram Verenkar,  
son of Dattaram Verenkar,  
R/o Damodar Polyclinic,  
Vasco-da-Gama.
5. Smt. Tara Kerkar,  
R/o E-83, Housing Board  
Colony, New Vaddem,  
Vasco-da-Gama.
6. Shri Jaykar Mahabal Shetty,  
son of Mahabal Shetty,  
R/o Nilam Appartment, Behind  
Vaddem Lake, Vasco-da-Gama.
7. Shri Andrew John Paulo  
Rodrigues, R/o H. No. 287-2,  
Behind-State Bank of India,  
Vasco-da-Gama.
8. Pascoal Domingo D'Souza,  
R/o 265, Ville Dom-Rine,  
Kharviwada, Behind Tilak  
Maidan, Vasco-da-Gama. ... Respondents.

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. S. Karpe, Advocate for the Petitioner.

Mr. V. P. Thali with Miss G. Pednekar, Advocates for the Respondent No. 1.

Coram: P. V. Hardas, J.

Date : 18th July, 2003.

#### JUDGMENT

The election petitioner, an unsuccessful candidate at the General Elections to the Legislative Assembly of Goa, held on 30th May, 2002, has challenged the election of the respondent No. 1, the returned candidate, who was declared elected from the Vasco-da-Gama Assembly Constituency. The Chief Electoral Officer of the State of Goa by Notification No. 464/GOA-LA/2002, dated 6th May, 2002 and under sub-section (2) of Section 15 of the Representation of the People Act, 1951, had called upon the Assembly Constituencies of the State of Goa to elect members to the Legislative Assembly of the State of Goa and had further appointed the dates for different stages of the election by publication in the Official Gazette, Series II, No. 5, Extraordinary, dated 6th May, 2002. The copy of the Gazette is annexed to the election petition as Exhibit 'B'. The election petitioner was nominated as a candidate at the General Elections to the Legislative Assembly of the State of Goa from the Vasco-da-Gama Constituency. The returned candidate was also nominated as a candidate at the said General Elections to the Legislative Assembly of the State of Goa from the Vasco-da-Gama Assembly Constituency. The Returning Officer had published a list of contesting candidates under Rule 31(1)(b) on 16th May, 2002. The list of the names of the candidates for contesting the elections and the symbols allotted to each of them is annexed to the petition as Exhibit 'E'. In Exhibit 'E' the name of the election petitioner appears at Serial No. 3 and the name of the returned candidate/respondent No. 1 appears at Serial No. 1.

2. The ground taken in the present election petition challenging the election of the returned candidate/respondent No. 1 is that on the date of nomination and the date of election of respondent No. 1 he was disqualified as the respondent No. 1 was the Chairman of the Goa State Scheduled Castes and Other Backward Classes Finance and Development Corporation Ltd., and, as such, was holding an office of profit under the Government of Goa and that the respondent no. 1/returned candidate has committed corrupt practices, which are stated in paragraphs 14(a) to (f).

3. In response to the notice being issued by this Court, the respondent No. 1/returned candidate filed an application at Exhibit 12 under Order VII, Rule 11 of the Code of Civil Procedure read with Section 86 of the Representation of the People Act. In the said application various grounds have been raised for dismissal of the election petition. The election petitioner has filed his reply to the application at Exhibit 12 and the reply of the election petitioner is at Exhibit 23.

4. The parties to the proceedings had submitted draft issues. After hearing the learned counsel for the parties, the following issues have been framed:-

"1. Whether the respondent No. 1 proves that the election petition is liable to be rejected under Section 81(1) read with Section 86 of the Act by reason of it being barred by limitation ?

2. Whether the respondent No. 1 proves that the election petition is liable to be rejected in limine under Section 86 of the Representation of the People Act, 1951 by reason of its non-compliance with Section 81(3), 83(1)(a), 83(1)(c) and 83(2) of the said Act ?

3. Whether the respondent No. 1 proves that the election petition is liable to be rejected under Order 7 Rule 11(a) of the CPC read with Section 87 of the said Act by reason of non-disclosure of any cause of action?"

5. In support of the prayer for dismissal of the election petition, the respondent No. 1/returned candidate has examined one witness. The respondent No. 1/returned candidate examined Miss Gandhali N. Pednekar, an Advocate practising at Panaji, as his witness. The affidavit by way of examination-in-chief of R. W. 1 Gandhali Pednekar is at Exhibit 32. R. W. 1 Gandhali Pednekar in her affidavit states that she is a practising advocate and is a junior of Advocate Vilas P. Thali, the Advocate for respondent No. 1/returned candidate. She has been assisting Advocate Shri Thali in the present election petition. She has further stated that the present election petition was listed on board for admission before this Court on 2nd August, 2002. She has stated that, on 2nd August, 2002, Advocate Vilas Thali filed his wakalatnama on behalf of the respondent No. 1 and this Court was pleased to direct the Registry to supply a copy of the petition to the learned counsel Shri Vilas Thali, appearing for respondent No. 1. She has further

stated that immediately after the hearing of the matter was over, she alongwith her senior Advocate Shri Vilas Thali went to the Assistant Registrar of this Court and her senior Advocate Shri Vilas Thali informed the Assistant Registrar about the Order of this Court, dated 2nd August, 2002 and requested the Assistant Registrar to furnish a copy of the election petition. She has also stated that the Assistant Registrar, accordingly, served a copy of the election petition alongwith its annexures to Advocate Shri Vilas Thali in her presence. The copy received by Advocate Shri Vilas Thali in her presence, on 2nd August, 2002, from the Assistant Registrar of this Court is at Exhibit RW/1. She has further stated that, subsequently, on 19th August, 2002, the bailiff of this Court served two more copies of the election petition alongwith the annexures and the notice of this Court. She has also stated that since her senior Advocate Vilas Thali had already been served with a copy of the election petition alongwith its annexures on 2nd August, 2002, R. W. 1 Advocate Gandhali Pednekar, on the same day, that is on 19th August 2002, returned one copy of the election petition together with the annexures to the Assistant Registrar of this Court, while retaining the notice issued by this Court, which was accompanying the copy of the election petition. The notice accompanying the election petition, which was served on R. W. 1 Advocate Gandhali Pednekar, is at Exhibit RW/2. She has stated that, out of the two copies served by the bailiff, she had retained one copy of the election petition together with the annexures and the notice of this Court. The copy of the election petition, so retained by R. W. 1 Advocate Gandhali Pednekar, together with the notice of this Court are at Exhibit RW/3.

6. In the cross-examination on behalf of the election petitioner, R. W. 1 Advocate Gandhali Pednekar has admitted that she has personal knowledge that Advocate V. P. Thali filed wakalatnama on 2nd August, 2002 on behalf of respondent No. 1. She has also admitted that she has not filed the wakalatnama on behalf of respondent No. 1. The attention of the witness was, thereafter, drawn to a wakalatnama placed in the Miscellaneous File, dated 4th August, 2002, filed by Advocate V. P. Thali on behalf of respondent No. 1. The said wakalatnama is at Exhibit RW/4. On perusal of the said wakalatnama, Exhibit RW/4, R. W. 1 Advocate Gandhali Pednekar stated that there is an endorsement of the Senior Superintendent (Judicial Branch) of having received the said wakalatnama on 6th September, 2002. She also admitted the suggestion that the wakalatnama at Exhibit RW/4 was filed on 6th September, 2002. The attention of this witness was then drawn to her statement in paragraph 2 of the affidavit, which reads as under:-

"that on 2-8-2002, my senior, Advocate Vilas Thali, filed his Vakalatnama on behalf of the Respondent No. 1 ....."

She admitted the statement to be correct. The witness volunteered that Advocate Shri Vilas Thali has stated

before the Court that he was appearing on behalf of respondent No. 1 and had tendered the wakalatnama at Exhibit RW/4 before the Court and the Court had asked Advocate Vilas Thali to file the wakalatnama in the Registry. The witness further admitted that the wakalatnama is dated 4th August, 2002. She denied the suggestion that on 2nd August, 2002 Advocate V. P. Thali did not have a wakalatnama signed by respondent No. 1. She also denied any knowledge if respondent No. 1 had received any summons to appear in this Court on 2nd August, 2002. Similarly, she denied any knowledge whether respondent No. 1 had not received any summons to appear in this Court on 2nd August, 2002. She has stated that she had accompanied Advocate Shri V. P. Thali to the Registry before 1.00 p.m. to collect the copy of the petition on behalf of the respondent No. 1. She has also stated that she cannot say whether the Order, dated 2nd August, 2002, was signed when she accompanied Shri V. P. Thali to the Registry for obtaining copy of the election petition on behalf of respondent No. 1. She has volunteered "I accompanied Advocate V. P. Thali to the Registry after the Order was dictated in open Court". She has also admitted that Advocate V. P. Thali did not make any endorsement of having received a copy of the election petition, Exhibit RW/1, on behalf of respondent No. 1. She admitted her signature on the summons at Exhibit RW/5 in token of having received a copy of the election petition and has also admitted to have put the date, 19th August, 2002, beneath her signature. She has admitted that Exhibit RW/5 is the original of Exhibit RW/2. She has denied the suggestion that in her presence Advocate V. P. Thali did not receive the copy of the petition at Exhibit RW/1 on 2nd August, 2002. She also denied the suggestion as false that she was deposing in order to oblige Advocate Shri V. P. Thali in sustaining the preliminary issues, which have been framed. She has admitted that the examination form, dated 18th July, 2002, was signed by the Section Officer (Judicial), which is at Exhibit RW/7.

7. In the re-examination she has stated that she has no personal knowledge regarding the date on which the wakalatnama at Exhibit RW/4 was signed by the respondent No. 1. She has volunteered that the said wakalatnama was with Advocate Shri V. P. Thali on 2nd August, 2002 duly signed by respondent No. 1. In the re-examination she has admitted that she has not actually seen respondent No. 1 signing the wakalatnama and delivering the same to Advocate V. P. Thali.

8. After the examination of R. W. 1 Advocate Miss Gandhali Pednekar, the respondent No. 1 filed a pursis at Exhibit 33 stating therein that the respondent No. 1 does not want to examine any other witness. The election petitioner also filed a pursis at Exhibit 34 stating that the election petitioner does not wish to examine any witness at this stage.

9. I have heard Advocate Thali on behalf of the returned candidate/respondent No. 1 and Mr. Coelho Pereira, learned counsel on behalf of the election petitioner.

10. In respect of Issue No. 1:- The first issue which is framed is whether the respondent No. 1 proves that the election petition is liable to be rejected under Section 81(1) read with Section 86 of the Act by reason of it being barred by limitation. The elections were admittedly held on 30th May, 2002. The results of the election were announced by Notification dated 2nd June, 2002. The election petition was filed in this Court on 16th July, 2002. As per Section 81 of the Representation of the People Act, 1951, the limitation prescribed for filing an election petition calling in question any election is 45 days from the date of election of the returned candidate. Since there is only one returned candidate, the limitation will have to be reckoned as within 45 days from the date of the election of the returned candidate. Mr. Thali, the learned counsel appearing for the respondent No. 1, has very fairly stated that the election petition has been filed on the last date of the prescribed period of limitation and, therefore, the election petition has been properly filed under Section 81 of the Act. Thus, issue No. 1 is answered in the negative by holding that the respondent No. 1 has failed to prove that the election petition is liable to be dismissed under Section 81(1) read with Section 86 of the Representation of the People Act, 1951 by reason of it being barred by limitation.

11. As to Issue No. 2:- In order to effectually decide this issue and the objections raised regarding the filing of the election petition, this issue can be sub-divided, for the purpose of appreciating the arguments as under:-

(A) The respondent No. 1/returned candidate has stated that the election petition is liable to be dismissed on the ground that the copy of the election petition, which is supplied to the respondent No. 1/returned candidate, is not a true copy. The respondent No. 1/returned candidate has, therefore, contended that there is breach of Section 81(3) of the Representation of the People Act, 1951.

12. Mr. Thali, the learned counsel appearing on behalf of the respondent No. 1/returned candidate, has submitted that the respondent has examined R. W. 1 Advocate Gandhali Pednekar. She has stated that, on 2nd August, 2002, she accompanied her senior Advocate Vilas Thali to the Registry of this Court and had received a copy of the petition, which is at Exhibit RW/1. It is thus, stated that the copy of the election petition at Exhibit RW/1 is not a true copy of the petition, which is filed in this Court. It is stated that at internal page 10 of Exhibit RW/1, after the prayer clause, there is no signature of the election petitioner. Similarly, after the verification, there is no signature of the election petitioner. The stamp in respect of swearing of the affidavit is also absent on Exhibit RW/1. The affidavit accompanying the petition also does not bear the signature of the deponent. Though Mr. Thali has admitted that the respondent No. 1/returned candidate has received subsequently two copies of the election petition, out of which one copy was returned, and that

the copy received by the respondent No. 1/returned candidate subsequently is a true copy, non-compliance of Section 81(3) of the Representation of the People Act, would result in dismissal of the petition.

13. Section 81(3) of the Representation of the People Act enjoins that the election petition shall be accompanied with as many copies thereof as there are respondents mentioned in the petition and secondly, every such copy shall be attested by the petitioner under his own signature to be true copy of the petition. Thus, the copy which is to be supplied to the respondent No. 1/returned candidate should be a true copy. A true copy would, therefore, mean a copy which is wholly and substantially the same as the original. If the copy contains important omissions and substantial variations then it would amount to non-compliance of statutory provisions.

14. The learned counsel appearing for the respondent No. 1/returned candidate has placed reliance on the Judgment of a learned Single Judge of this Court in *Jagannath Shindu Rahane v. Smt. Manisha Manohar Nimkar*, 1996(3) ALL MR 475. Reliance is placed on the observations of the learned Single Judge at paragraphs 34 and 35 of the report which read as follows:-

"34. The various flaws/mistakes/omissions highlighted and pointed out and which have been enumerated hereinabove with regard to the copy of the petition furnished to the respondent are discernible to naked eye and this could be ascertained by a comparison of the copy supplied to the respondent from the original petition. The petitioner has filed the affidavit in support of election petition which is at pages 33-34. True it is that in this petition the petitioner has not taken up the ground of corrupt practice questioning the election of the respondent. But it would be besides the point. In the matter herein the fact remains that the petitioner has in fact made an affidavit and has annexed the same to the petition. We are concerned mainly whether there is a compliance of Section 81 of the said Act in furnishing a true copy of the petition. The various flaws in the copy of the petition furnished to the respondent have been noted hereinabove in para 14 to which there is no dispute and in my view there cannot be also as the same are apparent on the face of it. Section 81 of the said Act contemplates of furnishing the true copy of the petition and the petition would include in the context of supply of copy thereof, alongwith the petition all its exhibits, annexures and schedules, which forms its integral part. It is undisputed fact that the affidavit forms part of election petition and the copy furnished thereof does not indicate whether in fact the same was affirmed by the petitioner. Same also does not show the name and designation of the affirming authority. In my

view, these are serious lacunae and omissions on the part of the petitioner.

35. Similarly, the concise statement which is at pages 31 and 32 of the election petition, the filing of which is statutory requirement as contained in sub-section (1) of Section 83(1) of the said Act. From the original petition it is noticed that the petitioner has affirmed and verified the same before the Associate, High Court, Bombay. However as noticed and pointed out earlier copy furnished to the respondent does not so indicate."

15. Reliance is then placed on the decision of the learned Single Judge of this Court in *Narendra Bhikahi Darade v. Kalyanrao Jaywantrao Patil and others*, A. I. R. 2000 Bombay 362. In the aforesaid Judgment one of the defects that was pointed out in respect of the copy received by the returned candidate was the name and designation of the Officer before whom the verification was verified was not there. The second defect that was pointed out was that the concise statement of material facts contained in the copy of the petition was not verified in the manner verified and signed in the original copy of the petition. The other defect was that the copy of the affidavit annexed to the copy of the petition supplied to the respondent was lacking the name of the person before whom it was affirmed. The learned Single Judge of this Court in paragraph 19 has held thus:-

"19. In the light of the above observations omissions to write name of the attesting officer held to be not fatal and can be found that S. 81(3) has been substantially complied with. But *T. M. Jacob's case* (AIR 1999 SC 1359) cannot be used by the petitioner in this case. In that case only signature of the officer was missing. Instead, it was written "Sd" and below that name of the officer was written. In that circumstances, Supreme Court has held that defect is not fatal and held to be substantially complied with. But here in this case, name of the Officer was missing and verification is also not there. If one receives a copy of the Election Petition, naturally doubt may arise and confusion may creep in as to whether it was signed by a proper officer and as to what objection he has to raise in the Election Petition, therefore absence of the name of the officer before whom the petitioner put signature cannot be said to be one that can be substantially complied with. It is really a fatal defect. Other defects pointed out that the absence of verification as prescribed under law in the annexure and absence of attestation of true copy under the signature of the petitioner has also to be found to be fatal. Moreover defect No. (iii) of supplying document and annexures along with copy different from that of the original is liable to mislead the respondent No. 1 in formulating his defence as held in *Dr. Shipra's case* (AIR 1996 SC 169)."

The learned Single Judge has further held in paragraph 22 as under:-

"22. .... Here in the present it is not non-supply of material particular only but non-verification of concise statement and affidavit. Therefore it cannot be said that a true copy has been supplied to respondent No. 1. In view of the above observations of the *Narayanswami's case* (AIR 2000 SC 694), non-verification of concise statement of material facts and affidavit in the copy of the Election Petition cannot be considered to be curable defect by way of an amendment of the Election Petition."

16. Reliance is next placed by the learned counsel for the respondent No. 1/returned candidate on the Judgement of the learned Single Judge of this Court in *Baban Yadav v. Shri Abdul Kadir and others*, A. I. R. 1998 Bombay 60. In that case the name of the Officer who had administered oath to the petitioner or before whom the petitioner had verified the petition was not mentioned on the copies served on the respondent nor was there anything to show it was so verified and affirmed before the said Officer. In that background, the learned Single Judge has held:-

"The copy of the election petition which is required to be served on the respondent has to be a true copy i.e. a copy which is substantially a reproduction of the original and if there is omission of vital nature in the copy as compared to the original election petition, it cannot be ignored and if there is such a omission, the copy of the petition served on the respondent cannot be a true copy of the original. If the copy of the election petition served on the respondent contains omission as regards the endorsement by the prescribed authority before whom the petition is verified, such a omission, is considered as a vital omission and would entail the dismissal of the petition under Section 86(1)."

17. Reliance is also placed on the decision of the learned Single Judge of this Court in *Vinod Ramchandra Ghosalkar v. Sunil Dattatray Tatkar and others* 1997(3) Bom. C. R. 110. In the aforesaid authority one of the objections was that in the copy supplied to the respondents does not contain the signature or name of the Officer who had administered the oath to the petitioner. It was also urged in the aforesaid case that the true copy of the verification of the petition was not furnished to the respondents. In the background of the objection, the learned Single Judge in paragraph 31 has held thus:-

"31. I therefore hold that in these cases, since the copy supplied to the respondent do not contain the signature or name of the Associate and the date put by him, the copy supplied is not a true copy within the meaning of Section

81(3) of the Act, therefore, is a fatal defect which warrants the dismissal of the election petition for non-compliance of provisions of Section 81(3) of the Act."

18. Mr. Thali then places reliance on the Judgment of the Supreme Court in *Rajendra Singh v. Smt. Usha Rani and others*, (1984) 3 Supreme Court Cases 339, in which the Supreme Court has held that if the election petitioner files a number of copies some of which may be correct and some of which are incorrect, it is his duty to see that the copy served on the respondent is a correct copy. The respondent is not obliged to wade through the entire record in order to find out which is the correct copy. If out of the copies filed, the respondent's copy is found to be an incorrect one, it amounts to non-compliance of Section 81(3) which is sufficient to entail a dismissal of the election petition at the behest under Section 86.

19. Mr. Coelho Pereira, the learned counsel appearing for the election petitioner, has placed reliance on the Judgment of the Supreme Court in *T. Phungzathang v. Hangkhanlian and others*, (2001) 8 S. C. C. 358. This was a case where the Supreme Court held that the mere omission, in the set of copies which were supplied to the respondents, regarding the endorsement made by the Oath Commissioner attesting the affidavit to have been sworn by the deponent before him, his signature and rubber stamp did not appear in the copy of the affidavit delivered to the respondents, would not ipso facto entail dismissal of the election petition under Section 86(1) of the Representation of the People Act, 1951. In the said case, the Supreme Court was of the view that the petitioner therein had a few days before the starting of the arguments, supplied fresh copies of the affidavit containing the verification as found in the original affidavit in its entirety and, therefore, the Supreme Court came to the conclusion that the defects pointed out in the petition being curable, had been cured.

On behalf of the election petitioner, reliance is also placed on the Judgement of the Supreme Court in *T. M. Jacob v. C. Poullose and others* (1999) 4 S. C. C. 274. In this case the copy of the affidavit that was served contained an endorsement that the affidavit had been duly affirmed, signed and verified before a Notary. Under the affirmation by Notary, the words, 'Sd/- Notary' were also written. What was missing, however, in the copy of the affidavit was the name and address of the Notary as well as the stamp and seal of the Notary before whom the affidavit had been so affirmed and who had attested the affidavit. The Supreme Court found that the copies of the election petition and the affidavit served on the returned candidate bore the signatures of the petitioner on every page and the original affidavit filed in support of the election petition had been properly signed, verified and affirmed by the election petitioner and attested by the Notary. Non-mention of the name of the Notary or the absence of the stamp and seal of the Notary in the otherwise true copy supplied by the election petitioner could not be construed to be an omission or variation of

a vital nature and thus the defect, if at all it could be construed as a defect, was not a defect of any vital nature attracting the consequences of Section 86(1) of the Representation of the People Act, 1951.

Reliance is then placed on the Judgment of the Supreme Court in *Ram Prasad Sarma v. Mani Kumar Subba and others* JT. 2002 (8) SC 517. In this case, the true copy of the affidavit served on the respondent by the election petitioner did not contain the attestation stamp of the Oath Commissioner. The original election petition, however, bore the signature of the Oath Commissioner. The Supreme Court, thus, came to the conclusion that once an averment was there, that affidavit is being sworn in support of the allegations of corrupt practices and that the petitioner had put his signature thereon prima facie fulfilment of the legal requirement is adequately reflected even in the absence of the name and seal of the Oath Commissioner in the true copy. Mere omission of the name and stamp of the Oath Commissioner would not be material. The Supreme Court, therefore, held that dismissal of the election petition on this count was not correct.

20. Mr. Coelho Pereira, the learned senior counsel appearing on behalf of the election petitioner, has submitted that the respondent No. 1/returned candidate was subsequently served with two copies of the election petition, which are true copies of the original. He further submitted that the respondent No. 1/returned candidate returned one copy and retained with him a copy, which was received by him from the Registry, and one copy, which was served through the bailiff. The learned senior counsel for the election petitioner then submitted that perusal of the deposition of R.W. 1 Advocate Gandhali Pednekar would show that her statement that the wakalatnama was filed on 2nd August, 2002 by Advocate V. P. Thali is incorrect. The wakalatnama Exhibit RW/4 was filed in the Registry on 6th September, 2002. The wakalatnama is also dated 4th August, 2002. Therefore, according to the learned senior counsel for the election petitioner, the learned counsel for the respondent No. 1/returned candidate was not armed with the wakalatnama when he accepted notice on behalf of the Respondent No. 1/returned candidate. He has further urged that R. W. 1 Advocate Gandhali Pednekar being the junior of Advocate V. P. Thali is deposing in favour of the respondent No. 1/returned candidate and therefore, her evidence that the learned counsel for the respondent No. 1/returned candidate had received the copy of the election petition at Exhibit RW/1 cannot be accepted. It is also urged that the respondent No. 1/returned candidate ought to have examined the Assistant Registrar to prove that the copy at Exhibit RW/1 had been served on the learned counsel for the respondent No. 1/returned candidate.

21. A perusal of the copy of election petition at Exhibit RW/1 it is seen that it is not signed by the election petitioner. After the prayer clause at internal page 13 of the petition above the word 'petitioner' there is no



signature of the election petitioner. Similarly, on the next page, beneath the verification, there is no signature of the election petitioner above the word 'petitioner'. Thus, pages 1 to 14 of the copy at Exhibit RW/1, there is no signature of the election petitioner. Thus, the Copy at Exhibit RW/1 would indicate that the election petitioner had neither signed, verified the petition nor was it attested before any authority. There is no endorsement of attestation of the Officer before whom the petition was signed. Similarly, there is absence of the signature of the Advocate, who had identified the election petitioner. An affidavit has been filed by the election petitioner and the copy of the affidavit in Exhibit RW/1 does not show that the affidavit has been affirmed by the election petitioner. There is no signature of the election petitioner above the word "deponent". There is no signature of the advocate, who has identified the election petitioner. There is an absence of the affirmation endorsement put by the authority, who has administered the oath including absence of signature and name of the authority. The Affidavit comprises of 3 pages. There is no signature of the election petitioner on any page, leave apart any endorsement of it being a true copy. For the aforesaid reasons, therefore, the copy at Exhibit RW/1, which is supplied to the respondent no. 1/returned candidate, is not a true copy of the election petition that is filed. The Judgements of the Supreme Court, on which reliance is placed by the learned counsel for the election petitioner, in my respectful opinion in the facts of the present case, are therefore, clearly distinguishable.

22. It is true that R.W. 1 Advocate Gandhali Pednekar in her evidence has stated incorrectly that the vakalatnama was filed by the learned counsel for the respondent No. 1/returned candidate on 2nd August, 2002. The vakalatnama was, in fact, filed on 6th September, 2002. The vakalatnama is also dated 4th August, 2002. However, on the basis of this discrepancy, it cannot be said that the statement of R.W. 1 Advocate Gandhali Pednekar that she had accompanied the learned counsel for the respondent No. 1/returned candidate to the Registry and had received the copy at Exhibit RW/1 is rendered doubtful. The copy at Exhibit RW/1 contains the signature of the election petitioner. It would be far fetched either to urge or to presume that this is a copy which is prepared by the respondent No. 1/returned candidate in order to secure dismissal of the election petition. Undoubtedly the respondent No. 1/returned candidate was subsequently supplied with a true copy of the election petition. But, that does not cure the defect in supplying to the respondent No. 1/returned candidate a copy of the petition, which is not a true copy of the election petition. Therefore, according to me, there is a breach of Section 81(3) of the Representation of the People Act inasmuch as the copy at Exhibit RW/1 supplied to the respondent No. 1/returned candidate was not a true copy of the election petition.

(B) The second objection is in respect of the fact that the election petition when presented was not

accompanied with as many copies thereof as there are respondents mentioned in the petition. The learned counsel appearing on behalf of the respondent No. 1/returned candidate has drawn my attention to the endorsement made by the Additional Registrar of this Court, dated 16th July, 2002, at Exhibit 1, which is the presentation form. The endorsement on Exhibit 1 reads as under:—

"Presented today i.e. Tuesday, the 16th July, 02 at 2.30 p. m. by Jose Philip Domingo D'Souza personally, accompanied by Adv. Mr. Amrut Kansar, S. O. Jud. to process on the provisions of the Act and the Rules."

The Roznama, dated 16th July, 2002, signed by the Additional Registrar reads as under:—

"ELECTION PETITION No. 2 of 2002

Petition accompanied by Presentation form Presented in person by Jose Philip Domingo D'Souza who is accompanied by his Counsel Advocate Amrut Kansar, (Exh.-1)

Index presented alongwith the petition (Exh. 2).

List of Documents (Exh. 3).

Affidavit of the Petitioner Msr. Jose Philip Domingo D'Souza (Exh.-4).

Memo of Address (Exh.-5).

Vakalatnama of Advocate Mr. Amrut Kansar (Exh.-6).

Petitioner deposited Security deposit of Rs. 2000/- as per receipt No. 3403 dt. 16-7-02.

Office to examine the petition and process it further.

Sd/-  
Addl. Registrar."

23. The Examination Form, Exhibit RW/7, which is dated 18th July, 2002, shows at Query No. 3 that there are requisite number of copies for service to the respondents. The petition was, admittedly, filed on 16th July, 2002, which was the last day of the period of limitation prescribed for filing of the election petition under the Representation of the People Act. The endorsement of the Additional Registrar does not disclose that when the election petition was filed it was accompanied by as many copies thereof as there are respondents mentioned in the petition. The Order Sheet of the Additional Registrar, dated 16th July, 2002 also does not indicate that the election petition was accompanied by as many copies thereof as there are respondents. The office endorsement shows that the second set of copies to be served by registered post acknowledgement due was supplied by the advocate for the election petitioner on 12th August, 2002.



24. Relying on the aforesaid Exhibits, it is urged by Mr. Thali, the learned counsel for the respondent no. 1/returned candidate, that these documents, prima facie, show that the election petitioner when presenting the petition did not file the requisite number of copies as there are respondents. He has urged that the petition was filed on the last day of the limitation period and, though the Examination Form signed by the Section Officer (Judicial), dated 18th July, 2002, shows that the petition was accompanied by requisite number of copies, the fact remains that there is nothing of record to show that the petition when filed was accompanied by requisite number of copies. He, therefore, submitted that the election petitioner ought to have, in the face of these documents, examined the Additional Registrar of this Court to prove that the petition was accompanied by the requisite number of copies when it was presented to the Registry on 16th July, 2002. According to Mr. Thali, the supply of the additional copies subsequently, particularly after the expiry of the period of limitation cannot cure the defect in the present petition.

25. Mr. Coelho Pereira, the learned senior counsel appearing on behalf of the election petitioner has relied on the decision of the Orissa High Court in *Ratnakar Mohanty v. Jugal Kishore Patnaik*, A. I. R. 1976 Orissa 85. In the aforesaid authority it was held that where an election petition was resisted on the ground of non-compliance of Section 81 in that an attested copy was not filed alongwith the petition, on the basis of the certificate as endorsed on the petition on its presentation, it was seen that there was no defect. The respondent in support of that objection had not examined the Registrar, the Stamp Reporter and the Peon on the presumption that the attested copy was filed with the original election petition was not rebutted. The facts of the reported case can be distinguished. The Office Note in the reported decision read that summons for written statement and also copy of election petition filed. The Stamp reporter had also noted that there was no defect in the filing of the petition. On the basis of this, therefore, the learned Judge came to the conclusion that the election petition was in conformity with the requirements of law. In other words an attested copy accompanied the original petition.

26. Reliance is placed by the learned senior counsel for the election petitioner on the decision of the Supreme Court in *Jugal Kishore Patnaik v. Ratnakar Mohanty*, A. I. R. 1976 S. C. 2130. The Supreme Court in paragraph 8, in response to answering an objection regarding non-filing of requisite number of copies for the respondent, has held that there was an endorsement, dated April 15, 1974 made by an officer of the High Court which shows that a copy of the election petition had been filed. The Supreme Court further held that there was no cogent reason as to why an officer of the High Court should make a false endorsement on the petition, if, in fact, no such copy was filed. The facts of the reported Judgement, therefore, can be clearly

distinguished from the facts of the present case. Thus, there is breach of Section 81(3) of the Representation of the People Act in not supplying as many copies as there are respondents. This issue is, therefore, answered in the affirmative in favour of the respondent No. 1/returned candidate.

(c) The election petitioner states that there is non-compliance of Sections 83(1) (c) and 83(2) of the Representation of the People Act. During the course of arguments, the learned counsel appearing on behalf of the respondent No. 1/returned candidate has very fairly stated that the petition and the documents have been properly verified. So this is, therefore, not pressed by the respondent No. 1/returned candidate.

(D) Mr. Thali, the learned counsel appearing on behalf of the respondent No. 1/returned candidate, has urged that the affidavit sworn by the election petitioner is defective. The election petitioner has filed an application in this Court for permission to file a correct affidavit. By consent of the learned counsel for the parties, hearing of the said application had been deferred till the disposal of the present petition. Even otherwise, Mr. Coelho Pereira, the learned counsel appearing for the election petitioner, has invited my attention to the Judgement of the Supreme Court in *H. D. Revanna v. G. Puttaswamy Gowda and others*, (1999) 2 S. C. C. 217. The Supreme Court has held that defect in the verification of the election petition or the affidavit accompanying the election petition is curable and is not fatal. In view of this, there is no force in the submission of the learned counsel for the respondent No. 1/returned candidate that the election petition he dismissed as the affidavit filed in support of the election petition is defective.

(E) In respect of Section 83(1)(c):- Mr. Thali, the learned counsel appearing on behalf of the respondent No. 1/returned candidate has drawn my attention to Exhibit F the document filed by the election petitioner alongwith the petition. This document forms an integral part of the petition and is referred to in paragraph 11 of the petition. Paragraph 11 of the petition, in which this document Exhibit F is referred, reads as under:-

"11. The petitioner states that the Returning Officer and the Chief Electoral Officer had the poll on 13-05-2002 and the counting of votes on 1-06-2002 and declared the respondent no. 1 duly elected to fill the seat. A copy of return of election dated 1-06-2002 is produced herewith and marked as exhibit F."

In the verification it is stated that the petitioner solemnly affirms and verifies that the statement in paragraph 1 .... 11 .... are true to his personal knowledge. The affidavit accompanying the election petition was sworn on 15th July, 2002 and the petition came to be filed on 16th July, 2002. The document Exhibit F, is a xerox copy of the certified copy, which was received by the election petitioner. The stamp on the copy indicates that the election petitioner had applied for the copy on

11th July, 2002 and the copy was ready for delivery on 16th July, 2002 and the copy was, in fact delivered on 16th July, 2002. Therefore, according to Mr. Thali, the learned counsel for the respondent No. 1/returned candidate, the document at Exhibit F was never in the possession of the election petitioner when the petition was signed and verified and the affidavit affirmed. The verification, therefore, is defective, which goes to the root of the matter and, therefore, the document which forms an integral part of the petition, which is so verified by the petitioner, but was never in the possession of the petitioner, the petition cannot be said to be properly verified. Thus, if the petitioner refers to a document which forms an integral part of the petition, but that document was not in possession of the petitioner, the petition cannot be said to be a petition within the meaning of Section 81 of the Representation of the People Act, 1951. Therefore, according to Mr. Thali, the petition deserves to be dismissed on this count. The petitioner has not stepped into the witness box to explain this discrepancy. The petitioner in his reply at Exhibit 23 in paragraph 21 has admitted that the petitioner had applied for the certified copy on 11th, July 2002 and the petitioner was given the date as 15th, July 2002 for taking delivery of the copy. The petitioner has further admitted that the copy was delivered to the petitioner on 16th July, 2002. The petitioner has also admitted that the petitioner signed, verified and the affidavit was sworn supporting the petition on 15th July, 2002. The petitioner has also admitted that he had signed and verified the petition on 15th July, 2002 and then proceeded to Vasco to collect the copy of the document at Exhibit F. Thus, the petitioner has admitted that when he signed and verified the petition, the document at Exhibit F was not in the possession, of the petitioner. In these circumstances, therefore, the defect in the verification goes to the root of the matter and it cannot be said that the petition presented is an election petition within the meaning of Section 81 of the Representation of the People Act, 1951. This issue is, therefore, answered in the affirmative. The petition is liable to be rejected on this count alone.

27. As to Issue No. 3 :— According to the respondent No. 1/returned candidate, the petition does not contain a concise statement of the material facts, on which the election petitioner relies and also that the petition does not disclose any cause of action.

28. Mr. Thali, the learned counsel appearing on behalf of the respondent No. 1/returned candidate, has urged before me that none of the grounds taken in support of the charge of corrupt practices spell out any corrupt practices alleged to have been committed by the respondent No. 1/returned candidate. He, therefore states that the petition does not disclose any cause of action. The election petition has been filed on the ground of corrupt practices as well as on the ground that the respondent No. 1/returned candidate, being the Chairman of the Goa State Scheduled Caste and Other Backward Classes Finance and Development Corporation Ltd., was holding an office of profit in Goa. Whether the

respondent No. 1/returned candidate was holding the office of profit, at the time when he submitted his nomination form and when he was elected, is a matter which will have to be adjudicated after the parties lead their evidence. Suffice it to say that, at this stage, the petition discloses a cause of action and, as such, it cannot be held that the petition does not disclose any cause of action entailing dismissal of the election petition. This issue, therefore, is answered in the negative.

29. In view of the discussion on Issue No. 2(A), (B) and (E), the petition is liable to be dismissed and is, accordingly dismissed with costs. Bill of costs be drawn up accordingly. Registry to communicate the Judgment as per the provisions of Section 103 of the Representation of the People Act, 1951.

Sd/-  
(P. V. Hardas)  
Judge.

◆◆◆◆◆  
Department of Civil Supplies  
& Consumer Affairs

Notification

No. DCS/ENF/CONTURDEB/78/2001

Order No. S.O. 1468(E), Order S.O. 1470(E) and Order S. O. 1471(E) dated 24-12-2003 issued by the Central Government in exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955) published in part II, Section 3, sub-section (ii) dated 26-12-2003 of Gazette of India (Extraordinary) is hereby republished for general information of the public.

By order and in the name of the Governor of Goa.

N. B. Narvekar, Director of Civil Supplies and Consumer Affairs and Ex-officio Joint Secretary.

Panaji, 10th March, 2004.

MINISTRY OF PETROLEUM AND NATURAL GAS

ORDER

New Delhi, the 24th December, 2003.

S.O. 1468(E).— In pursuance of sub-clause (e) of Clause 12 of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 2000, the Central Government hereby specifies the Director, Petroleum Planning and Analysis Cell, Scope Complex 7, Institutional Area, Lodhi Road, New Delhi-110003 and the Director General, Anti Adulteration Cell, Sanrakshan Bhavan, 10, Bhikaji Cama Place, New Delhi-110066 to collect information under the provisions of said Order.

[F. No. P-11013/8/2003-Dist.]

A. K. SRIVASTAVA, Jt. Secy.

**ORDER**

New Delhi, the 24th December, 2003.

S.O. 1470(E).— In pursuance of sub-clause (c) of Clause 7 of the Kerosene (Restriction on Use and Fixation of Ceiling Price) Order, 1993, the Central Government hereby specifies the Director, Petroleum Planning and Analysis Cell, Scope Complex 7, Institutional Area, Lodhi Road, New Delhi-110003 and the Director General, Anti Adulteration Cell, Sanrakshan Bhavan, 10, Bhikaji Cama Place, New Delhi-110066 to collect information under the provisions of said Order.

[F. No. P-11013/8/2003-Dist.]

A. K. SRIVASTAVA, Jt. Secy.

**ORDER**

New Delhi, the 24th December, 2003.

S.O. 1471(E).— In pursuance of sub-clause (4) of Clause 8 of the Petroleum Products (Maintenance of Production, Storage and Supply) Order, 1999, in supersession of the Ministry of Petroleum and Natural Gas Order number G.S.R. 275(E), dated the 9th April, 2002, the Central Government hereby specifies the Director, Petroleum Planning and Analysis Cell, Scope Complex 7, Institutional Area, Lodhi Road, New Delhi-110003 and the Director General, Anti Adulteration Cell, Sanrakshan Bhavan, 10, Bhikaji Cama Place, New Delhi-110066 to collect information under the provisions of said Order.

[F. No. P-11013/8/2003-Dist.]

A. K. SRIVASTAVA, Jt. Secy.

**Department of Panchayat Raj and  
Community Development**

Directorate of Panchayats

**Notification**

No. 19/32/DP/PAN/Sarp-Dy-Sarp/98/VP-II/1117

In pursuance of sub-section (1) of section 46 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994) it is hereby notified for the information of the public that the member mentioned in column No. 3 of the schedule hereinbelow has been elected as Sarpanch to the Panchayat mentioned in the corresponding entry No. 2 of the said schedule in the meeting held on 01-03-2004.

**SCHEDULE**

Sr. No.	Name of the Village Panchayat	Name & address of the Sarpanch
1	2	3
1.	Village Panchayat Bandora Ponda Block.	Shri Kishor Bhisa Parwar H. No. 631, Parwarwada, Bandora-Gaunem, Ponda-Goa.

P. M. Borkar, Director of Panchayats.

Panaji, 5th March, 2004.

**Department of Personnel****Order**

No. 6/2/2002-PER

Read: Order No. 6/2/2002-PER dated 25-2-2004.

Consequent upon taking over additional charge of the post of Under Secretary (Personnel-II) by Shri Prasanna Acharya, Under Secretary in Advocate General's Office, the work allotment in respect of Under Secretary (Personnel) and Under Secretary (Personnel-II) shall be as follows:-

Under Secretary (Personnel)	Under Secretary (Personnel-II)
1	2
1. All establishment matters relating to all Heads of Departments.	1. Rendering of advice on all service matters to all Government Departments/Offices.
2. T. B. P. S. / A. C. P. to all Government Departments/Offices.	2. Administrative and other matters of Goa Public Service Commission.
3. Matters relating to All India Service Cadre excluding I. P. S.	3. Establishment matters relating to Collectorates of North & South.
4. Recruitment Rules of all Departments/Offices including Secretariat.	4. Establishment matters relating to cadre of Mamlatdar/Joint Mamlatdar/Assistant Director of Civil Supplies.
5. Extension of service of all Government Officers beyond the date of superannuation.	5. Establishment matters relating to cadre of Block Development Officers.
6. Appointment of Managing Directors/Chief Executive Officers of Corporations/Autonomous Bodies.	6. Establishment matters of Goa Civil Service.

1	2
7. Foreign Assignments.	7. All matters relating to I. P. S. and Goa Police Service Cadre.
8. Formation of Association and other matters of the Association.	8. Examinations conducted by U. P. S. C. / N. D. A. in Goa.
9. Establishment matters relating to Superintendents (Outside Secretariat) including seniority list of Head Clerks and Senior Stenographers.	9. Training/Workshop/Seminars of Officers of the organized cadres and others in India and abroad and allied matters.
10. Maintenance of C. Rs. of IAS/IPS/IFS/Goa Civil Service Officers/Superintendents (Outside Secretariat)/Head Clerks/Mamlatdars/Joint Mamlatdars/B.D.Os./Section Officers in the Secretariat, etc.	10. Establishment of State Institute of Training.
11. H. R. A.	11. P. A. C. matters.
12. Civilian Awards.	12. Weekly reports/Cabinet decisions/Establishment matters.
13. Surplus Cell including issue of NOC & absorption of surplus staff.	13. Compilation of General L. A. Qs.
14. Issue of Instructions on regularization of daily wages/NMR, etc.	14. The Goa Government Employees (Redressal of Grievances Forum) Scheme, 2001.
15. Appointment on harness grounds.	15. Ombudsman.
16. Forwarding of consolidated statements of SC/ST in respect of this Department.	16. Any other matters related to Personnel Department.
17. Circulation of various vacancies among IAS Officers and other organized cadre to be filled on deputation.	
18. Goa State Civil Service (Grant of leave to seek employment in India or abroad) Rules, 2002.	
19. Labour Contract Society.	
20. Matters related to Pre-Employment Training Scheme.	
21. Any other matters related to Personnel Department.	

By order and in the name of the Governor of Goa.

S. V. Naik, Joint Secretary (Personnel).

Panaji, 4th March, 2004.

### Notification

No. 7/6/99-PER

Read: Notification No. 7/6/99-PER dated 05-02-2004.

Governor of Goa is pleased to order the allocation of Work/Departments to the following Secretaries to Government as shown below with immediate effect and until further orders:-

Sr. No.	Name and designation of the Officer	Departments allotted
1	2	3

- |  |   |
|--|---|
| 1. Shri B. S. Bhalla, IAS, Secretary (Election) (1990) | 1. Chief Electoral Officer<br>2. Election |
|--|---|

- |  |   |
|--|---|
| 2. Shri Ashwani Kumar, IAS, Secretary (Vigilance) (1992) | 1. Vigilance.<br>2. Printing & Stationery.<br>3. Science & Technology.<br>4. Official Language and Public Grievances.<br>5. Housing & Housing Board<br>6. Protocol.<br>7. Archives, Archaeology & Museum. |
|--|---|

The Government Notification of even number dated 05-02-2004 shall stand modified to this extent. There shall be no change in the allocation of other Works/Departments.

By order and in the name of the Governor of Goa.

S. V. Naik, Joint Secretary (Personnel).

Panaji, 8th March, 2004.

## Department of Public Health

## Government Printing Press

**Order**

No. 32/4/2003-I/PHD/665

Read:- 1) Order No. 32/4/2003-I/PHD dated 3-7-2003.

2) Order No. 22/6/98-I/PHD dated 18-11-2003.

In partial modification to Orders referred to above, the Government is pleased to appoint Dr. Ravindra Nadkarni, Chief Medical Officer/Medical Superintendent T. B. Sanatorium as District Tuberculosis Officer (DTO) for South Goa for the smooth running of District Tuberculosis Centre.

Consequently, Dr. Maximiano D'Sa, Medical Officer, T. B. Hospital, Margao shall henceforth function as M.O.T.C. of Margao Tuberculosis Unit until further orders.

By order and in the name of the Governor of Goa.

S. G. Korgaokar, Under Secretary (Health).

Panaji, 3rd March, 2004.

**Order**

No. 7/1/2001-I/PHD/673

On the recommendation of the Goa Public Service Commission, vide their letter No. COM/II/12/54(2)/2003 dated 21-01-2004, Government is pleased to confirm Shri Rajendra Naik, against the post of Technical Officer (Group 'B' Gazetted) in the Directorate of Food & Drugs Administration, Panaji with immediate effect.

By order and in the name of the Governor of Goa.

S. G. Korgaokar, Under Secretary (Health).

Panaji, 3rd March, 2004.

**Order**

No. 5/193/81-PHD(Part File)

Government is pleased to direct Dr. P. K. Ghodge, Dy. Director (AIDS) to officiate as Project Director of Goa State AIDS Society in addition to his own duties, with immediate effect and until further orders.

This order is issued in supersession of order of even number dated 6-10-2003.

By order and in the name of the Governor of Goa.

S. G. Korgaokar, Under Secretary (Health).

Panaji, 16th March, 2004.

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